

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION**

**May 17, 2007**

**Docket Number 9-05-07**

Case:	9-5-07 VW, Change in zoning for 1.89 acres of the 3.9 acre site from OR-3 office residential to C-2 commercial on property located at 5050 Norton Healthcare Boulevard (Tax Block 3712, Lot Number 8) and being in Louisville Metro.
Project Name:	Corbett's Restaurant/Old Brownsboro Crossing
Location:	5050 Norton Healthcare Boulevard
Owner(s):	McMahan Holdings / DABS Investments, LLC Collen Liebert, Manager P.O. Box 20206 Louisville, KY 40250
Applicant:	DABS Investments, LLC Colleen Liebert, Manager 462 S. Fourth Street, Suite 2200 Louisville, KY 40202
Representative:	Joseph Cohen 462 S. Fourth Street, Suite 2200 Louisville, KY 40202
Project Size/Area:	1.89 acres
Jurisdiction:	Louisville Metro
Council District:	16 – Kelly Downard
<b>Staff Case Manager:</b>	<b>Michael Wilcher, Planner II</b>

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:** Michael Wilcher presented the case and handed out materials to commissioners containing e-mails from adjacent property owners. He said everyone who contacted him regarding the project has been in support of the rezoning, including the letters of support distributed to the Planning Commissioners at the public hearing. He used a Power Point presentation to showcase the proposed development. The requested variance and waiver are no longer required due to the recent rezoning of the adjacent residentially zoned parcel east of the site to office-residential. Staff recommends approval of the rezoning. Binding Element No. 2 was amended to include the outdoor dining area as separate space from the gross floor area of the development and Binding Element No. 8 – regarding restrictions for music played on the site was eliminated altogether. The Planning Commission, as well as historic preservation organizations requested that the applicant provide a historical marker that meets LDC Regulations on the site, similar to the proposed yard sign that was removed from the plan due to compliance issues.

**The following spoke in favor of this request:**

Joseph Cohen  
462 S. 4<sup>th</sup> St, Suite 2200  
Louisville, KY 40202

Steve Porter  
2406 Tucker Station Road  
Louisville, KY 40059

Jon Henney  
101 S. 5<sup>th</sup> St, Suite 1400  
Louisville, KY 40202

**The following spoke in opposition:**

No one spoke.

**SUMMARY OF TESTIMONY OF PROPONENTS: (See transcript for text in full.)**

Steve Tucker represents the Wolf Pen Preservation Association. The Association supports this re-zoning. They ask that the owners erect an official historic marker on the property that would comply with all the historic guidelines.

Joseph Cohen represents the applicant. He used a PowerPoint presentation to show slides of the site. He said this project has support from neighbors. He said they had neighborhood association meetings, and everyone is for this. He said they only asked for C-2 because of the patio area.

Jon Henney had questions about binding element number 2, reflecting outdoor dining and the square footage.

**SUMMARY OF TESTIMONY OF OPPONENTS: (See transcript for text in full.)**

No one spoke.

**A transcript of the public hearing is on file in this docket.**

In a business session subsequent to the public hearing on this request, the Commission took the following action.

On a motion by Commissioner Howard, the following resolution was adopted:

**WHEREAS**, based on testimony and evidence submitted with the application, in the Staff Report and to the Planning Commission at various meetings, including LD&T Committee meetings and the public hearing, the Commission finds that this application pertains to a parcel within Old Brownsboro Crossing that contains the original historic house that was located on the Von Allmen Farm. Old Brownsboro Crossing is located at the intersection of Kentucky Highway 22 and the Gene Snyder Freeway. The proposed development should be appropriate in scale, site design, and the pattern of development with adjacent developments. The residential style restaurant, suitably landscaped and attractively designed, will serve as an attractive buffer between Old Brownsboro crossing and the development to the east; and

**WHEREAS**, the Commission finds that the proposed rezoning is for the use of the VonAllmen mansion as an upscale fine dining restaurant with patio service located within a retail shopping center and multi use facility known as Old Brownsboro Crossing that includes a mix of commercial developments which is in a Regional Center Form District where there is an existing and future demand for the goods and services provided and to be provided by the Corbett's Restaurant; because use of the historic residence as a restaurant development including an outdoor patio area to serve alcoholic beverages to patrons is appropriate at this location in northeastern Jefferson County which has close access to the Gene Snyder Freeway and Interstate 71; and because this area of Jefferson County needs additional upscale restaurants with outdoor patio service; and because this proposal is compatible with the area; and given that the site to be rezoned consists of 1.89 acres with a historic residence for the restaurant to include service and consumption of alcoholic beverages at the proposed outdoor patio dining space; and

**WHEREAS**, the Commission finds that the proposal complies with Community Form Guideline 1 because it meets the recommended characteristics of the Regional Center Form District in that it proposes the restaurant in a shopping center and Old Brownsboro Crossing which is compatible with the area. The Plan proposes to use the existing and emerging forms or patterns of development. Corbett's Restaurant will be designed to be compatible with the scale, rhythm, form and function of the existing development. Regional Center Form Districts are distinguished by a mixture of high intensity land uses including regional shopping, office, services and entertainment facilities. The Restaurant will provide an upscale restaurant facility to an existing development. Regional Centers are most appropriately located on or near major arterials, state or interstate highways; OBC is located at the intersection of Kentucky Highway 22 and Gene Snyder Freeway. OBC provides a high level of transit access off of Kentucky Highway 22 and provides pedestrian connectivity within the development. Corbett's Restaurant is proposed as an upscale restaurant with hours of operation ending at 11:00 p.m. on weekdays and midnight on weekends. Corbett's Restaurant seeks to provide a quality, upscale gathering place for the surrounding neighborhoods and visitors to the area including limited outdoor patio seating which is highly desirable to the dining public and will be a popular attraction to restaurant patrons. The restaurant will not adversely impact residential areas in the vicinity. The proposal is compact, consisting of an interior parcel of 1.89 acres in the 116 acre Old Brownsboro Crossing development with Costco located directly to the north. The proposed use as an upscale restaurant including outdoor dining is compatible with the other uses in the shopping center and Old Brownsboro Crossing and no residential uses will be adjacent to this site. The proposed new commercial use is located within the boundary of an existing corridor; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent and specifically with Policies 1-5, 7 and 12-16 of Guideline 2 of the Cornerstone 2020 Comprehensive Plan for all the reasons listed above and because the proposed restaurant will make efficient use of an available vacant building that lies within the Regional Center Form District and is located where utilities, good road access and other neighborhood commercial services are already situated; because a variety of commercial activity already takes place at Old Brownsboro Crossing, which includes casual restaurants, retail shopping and medical offices to serve this area of Metro Louisville; because adding an upscale restaurant to the existing commercial center will provide more services at a central location where people are already doing their shopping; and because the nicely landscaped, rehabilitated former Von Allmen residence, combined with its location in the Old Brownsboro Crossing center, where connectivity and shared access, all combine to provide this community and nearby residents with an even better activity center, with a greater variety of services to complement those that presently exist, than previous to this proposal; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of and specifically with Policies 1-9, 12, 20-24 and 28 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan for all the reasons listed above and because the development will ensure that land uses and transportation facilities are located, designed and constructed to be compatible with nearby land uses. The proposal is on one of the vacant parcels located within Old Brownsboro Crossing, where the existing historic residence remains. The reuse of the existing residence within the activity center will ensure compatibility of the structure; because this Guideline and the various Policies noted herein commend the use of appropriate building materials with accepted designs and thoughtful landscaping as a way of mitigating any adverse impacts of a use different than the uses adjoining it; because, as the uses otherwise located nearby are office or commercial, the residential looking structure will address the compatibility requirements of this Guideline 3 in an acceptable manner; because the preservation of the existing tree mass, perimeter buffering and landscaping have been designed to further mitigate the impact on adjoining uses; because the proposed landscaping between the proposed restaurant and adjoining uses assure effective, compatible landscape transitions; because sidewalks will be provided on site to connect with existing sidewalks within the Old Brownsboro Crossing development, which will extend into interior parking lots; because pedestrian access and connectivity are shown on the development plan accompanying this application; because odor and air quality issues related to traffic congestion or delay will be mitigated by the fact that internal roads and sidewalks systems are organized and designed to control traffic through appropriate street and pedestrian connections and safe access for automobiles, pedestrians and bicycles; because refuse will be picked up on a regular basis, with the refuse containers suitably screened with building materials consistent with the exterior of the restaurant; because lighting will be consistent with the residential character of the building and limited in style, to respect the character of the building; and because signage will be in conformance with the Land Development Code regulations, with only a single monument-style sign for the restaurant entrance; and the setbacks of the development are compatible with the development pattern of Old Brownsboro Crossing; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of and specifically with Policies 1, 2 and 4 of Guideline 4, Policies 1-4 and 6 of Guideline 5 and Policies 1-5 of Guideline 13 of the Cornerstone 2020 Comprehensive Plan for all the reasons listed above and because, although there is little open space for this 1.89 acre parcel, landscaping will be provided on the interior of the parking lots and along perimeters; some existing trees will be preserved on the property so the original residence will maintain its residential character; and the landscaping and buffer areas will be consistent with the other parcels located within Old Brownsboro crossing; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of and specifically with Policy 6 of Guideline 5 of the Cornerstone

2020 Comprehensive Plan for all the reasons listed above and because the addition of a fine dining restaurant to the existing Old Brownsboro Crossing center will further support the provisions of goods and services to residents living nearby; because this proposal takes a vacant parcel and adds it to the existing retail center in a way that better serves the community; and because the overall activity center concept is thus better served, especially since good road connections are provided; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of the Guidelines 7, 8 and 9 of the Cornerstone 2020 Comprehensive Plan and specifically with Policies 1-4, 6, 9-11, 13-16 of Guideline 7, with Policies 1, 4, 5, 7, 9, 10, and 11 of Guideline 8, and with Policies 1, 2 and 4 of Guideline 9 for all the reasons described above and because the applicant is providing good access, utilizing existing street connections, both to and within the existing Old Brownsboro Crossing, connecting OBC with Kentucky Highway 22 and Chamberlain Lane; because street connections and internal circulation are shown on the accompanying development plan in accordance with good traffic engineering design and as generally approved by the Transportation Planning section of DPDS; and because traffic flow has been designed internally and in relationship with the surrounding developments so as not to cause undesirable traffic impacts on the residential surrounding the activity center; and bicycle parking has been provided on site to accommodate bicycle traffic; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of Guidelines 10, 11 and 12 of the Cornerstone 2020 Comprehensive Plan for all the reasons described above and as evident on the accompanying district development plan and because no developed portion of the site lies within the 100 Year Floodplain, all drainage will comply with the MSD requirements for stormwater management, and the proposed restaurant has received preliminary approval from MSD for drainage and sewer functions and service; because Louisville Water Company will provide water service to the proposed restaurant; because soil erosion and sediment control plan will be implemented at construction phase to manage sediment during construction; because air quality will remain at good levels because , as noted above, the proposed internal road system, multiple street connections, roadway and intersection conditions and functioning will assure that traffic is distributed so as to maintain acceptable levels of air quality relating to congestion or traffic delays; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of Guideline 14 of the Cornerstone 2020 Comprehensive Plan for the reasons set forth above, and because water, sewer, electric and telephone connections are available on site to the original residential structure; and

**WHEREAS**, the Commission further finds that the application complies with all the other relevant and applicable guidelines of the Cornerstone 2020 Comprehensive Plan.

now, therefore, be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** a change in zoning to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from OR-3 to C-2,** on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Hamilton, Abstain, Storm, Fleischaker, Ernst, Blake, Carlson, Queenan, Wells-Hatfield and Howard.**

**NO: No one.**